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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Closed Captioning and Video Description) MM Docket No. 95-176
of Video Programming)

COMMENTS OF U S WEST

DOCKET FILE COPY ORIGINAL

U S WEST, Inc. ("U S WEST") herein provides comments to the Federal Communications Commission's ("Commission") Notice of Inquiry in the above-captioned matter.¹ U S WEST has interests relevant to this docket both as a direct provider of video programming through its MediaOne, Inc. cable systems in Atlanta, Georgia and as a transport provider of video programming through its video dialtone ("VDT") trial in Omaha, Nebraska.² U S WEST also holds video programming production and distribution facilities through its partnership in Time Warner Entertainment. Through this range and variety of experience, U S WEST appreciates the many issues faced by video programming providers with regards to closed captioning and video description.

¹ In the Matter of Closed Captioning and Video Description of Video Programming, MM Docket No. 95-176, Notice of Inquiry, FCC 95-484, rel. Dec. 4, 1995 ("NOI").

² In the Omaha trial, video programming is provided by Interface Communications, an unaffiliated level two provider.

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I. INTRODUCTION

The Commission has initiated its inquiry into closed captioning and video description to assess the current availability, cost, and uses of these services.³ The Commission has also requested comment on promoting wider use of closed captioning and video description by television broadcasters, cable operators, and other video programming providers.⁴ As the Commission noted in its NOI, there are more than 23 million Americans with hearing disabilities and more than eight million with visual disabilities. U S WEST agrees with the Commission that it is important for this segment of population to have an expanded level of access to the vast amount of beneficial programming provided on television. However, it is also important to ensure that the variety of programming currently available is not diminished by the potential economic burden of captioning. The Commission must carefully balance these two significant social goals in this proceeding.

This review is timely as the newly enacted Telecommunications Act of 1996 (or “Act”) expressly requires the Commission’s inquiry into the current level and use of closed captioning. The Act also requires the Commission to prescribe, within 18 months after enactment, regulations which mandate closed captioning (with possible exemptions for economic reasons).⁵ Further, the Act requires the Commission to study the accessibility and uses of video description.⁶ U S WEST

³ NOI ¶ 2.

⁴ Id.

⁵ Telecommunications Act of 1996, Pub. L. No. 104-104, § 305, 110 Stat. 56 (1996).

⁶ Id.

provides these comments in response to the specific issues raised by the Commission which have significant implications for U S WEST's various video programming interests.

II. ECONOMIC AND PRODUCTION EFFICIENCIES DICTATE THAT THERE BE A SINGLE POINT OF INSERTION FOR ANY MANDATED CLOSED CAPTIONING

U S WEST supports the Commission's efforts in this docket to expand the programming options of the millions of Americans with hearing and visual disabilities. U S WEST, in its role as a telecommunications common carrier, has supplied various technologies and services to ensure that people of all abilities are able to receive and use a full-range of telecommunications services (e.g., Telecommunications Relay Service). U S WEST recognizes the business and social value of providing service to these significant market segments.

It is also important, however, that closed captioning and video description be provided in the most efficient and cost-effective manner possible so as to not add unnecessary costs to the production and delivery to consumers of video programming. The Commission correctly points out that the provision of closed captioning and video description adds extra costs to program production.⁷ As these costs must be recovered by program producers through higher program rates (or, in the case of a broadcast network production company -- through higher advertising rates), it is important that costs be minimized where possible.⁸ The Commission

⁷ NOI ¶ 18.

⁸ Congress also recognized that there are economic considerations involved in the provision of closed captioning services by including specific exemption provisions in the new Telecommunications Act of 1996. The Act specifically provides the Commission with the authority to exempt certain programs.

must take steps to ensure that closed captioning is as cost efficient as possible to avoid being economically burdensome to program providers and distributors. One of these steps would be to mandate a single point of insertion where feasible.

To achieve the lowest costs and highest level of efficiency in video programming production, closed captioning must be inserted by the initial producer or the initial distributor of a program prior to public-wide distribution by broadcasters, cable operators, or other programming providers. Simple logic dictates that a single point of insertion is substantially more efficient than multiple insertions by individual distribution entities. It is also logical to assume that the insertion of captioning by the party with access to textual versions of the program script would be more efficient than after-the-fact program transcription. Logic therefore dictates a single, up-front insertion by the program producer or initial distributor. By taking steps to effectively reduce the costs of captioning and video description, the potential that such services will create a financial burden on any one provider will be limited.

III. THE COMMISSION MUST DEVELOP SPECIFIC EXEMPTIONS FOR CERTAIN CLASSES OF VIDEO PROGRAMMING FROM CLOSED CAPTIONING

As noted previously, the Telecommunications Act of 1996 provides the Commission with fairly broad authority to exempt certain programs and classes of programs from mandatory requirements where the provision of closed captioning

classes of programs, or services for which closed captioning would be “economically burdensome.” Act at § 305. Programmers may also petition the Commission on an individual basis upon a showing that the provisions adopted would result in an “undue economic burden.” *Id.*

would be economically burdensome. With this authority, the Commission must balance the benefits of providing additional captioned programming with the need to ensure that closed captioning requirements do not interfere with the production and distribution of a broad range of video programming. It is therefore important that the Commission consider the applicable economic impacts on the various categories of programming. These program categories, such as news, children's, prime-time, educational, etc., have widely varying audiences, distribution channels, and economic support. U S WEST recommends that the Commission consider multiple factors in its decision to require mandatory captioning for different program classes.

To simplify the selection process, the Commission should first attempt to either include or exclude broad categories of programming where reasonable. U S WEST would recommend that the Commission mandate closed captioning requirements for the general program categories of news, prime-time programming, and educational programming.⁹ U S WEST would recommend that the Commission not mandate closed captioning requirements for program-length advertising ("infomercials"), home shopping, foreign language programming, music, live entertainment, and other similar categories of programming.

Most local origination programming should also be exempted, as requiring closed captioning might prove to be cost prohibitive to smaller program producers.

⁹ Although U S WEST is strongly in favor of closed captioning for children's programming, it is concerned that the already limited availability of quality children's programming would be further diminished if captioning is mandated.

This is especially true for programs produced for distribution on public, education, and government ("PEG") access channels. The Commission has attempted in other dockets to encourage a broad range of available programming to the public. It must be careful to ensure that the requirements adopted in this proceeding do not limit or discourage smaller producers from creating new and innovative programming.

Local producers should be able to make the decisions on captioning services relating to the local markets served. If desirable, local authorities could direct some of the proceeds of franchise fees or other public funds to subsidize closed captioning or video description for locally produced programs or provide other incentives such as tax credits.

IV. CLOSED CAPTIONING AND VIDEO DESCRIPTION SHOULD CONTINUE TO BE FUNDED PRIMARILY FROM PRIVATE SOURCES WITH FINANCIAL INCENTIVES PROVIDED BY GOVERNMENT ENTITIES

As the Commission noted in the NOI, funding for closed captioning has come from a variety of sources, both public and private. Private sources and the marketplace should be the main funding vehicle for such services in the future. If public funding is necessary, that money should come from a percentage of locally collected fees, such as franchise fees. The government should provide additional incentives to video production companies which insert closed captioning or video description into their programming, and also those companies and individuals which provide private support, through the use of tax credits or deductions as applicable.

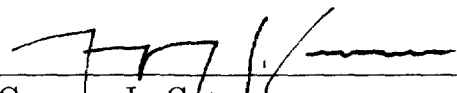
V. CONCLUSION

U S WEST reiterates its support for the Commission's goals of expanding the programming options of the millions of Americans with hearing and visual disabilities. The Commission can guarantee the expansion of closed captioning and video description through its continued attention to the issue and by proposing government incentives for the private funding of these types of services. The Commission must also ensure that the insertion of such services is done in the most efficient and cost-effective manner possible -- at the source of initial program production or distribution. Finally, the Commission must establish categories of programming and specifically exempt certain types of programming, including that which is locally produced, from captioning requirements.

Respectfully submitted,

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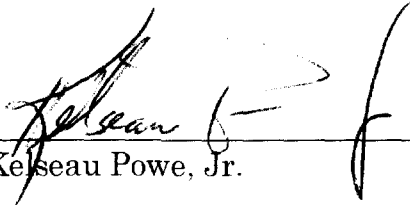
Its Attorney

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Dan L. Poole

February 28, 1996

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 28th day of February, 1996, I have caused a copy of the foregoing **COMMENTS OF U S WEST** to be served via hand-delivery upon the persons listed on the attached service list.


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